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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,599	07/30/2003	Chester C. Wood	9/257	8695

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EXAMINER

LILLING, HERBERT J

ART UNIT	PAPER NUMBER
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1651

DATE MAILED: 08/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/630,599

Applicant(s)

WOOD ET AL

Examiner

HERBERT J LILLING

Art Unit

1651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) 4 and 5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6 and 7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 4-5 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11-17-2003 407/20/03
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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1. Receipt is acknowledged of the response filed July 26, 2004.
2. Claims 1-7 are pending in this application.
3. Applicant has elected with traverse the species as noted by A(a); B(i) and C(q).

Claims 1-3 and 6-7 are within the scope of the claimed inventions.

Claims 4-5 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on July 26, 2004.

The arguments have been deemed not to be persuasive that the search and examination of the full scope of the claimed inventions would not be a serious burden on this Examiner. The issue submitted by Applicant that there is an overlapping of some of the terms is only part of the election requirement. Each of the claimed inventions involves multiple factors that have to be considered for the search and examination commensurate in scope with the claimed language.

The election of species has been made Final.

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4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3 are rejected under 35 U.S.C. 102(e) as anticipated by Leftheris et al. US 6670357 " Methods of treating p38 kinase-associated conditions and pyrrolotriazine compounds useful as kinase inhibitors"; Branger et al [cited on 1449 by Applicant on 1449 ] or Marin et al [cited by Applicant on 1449]

Leftheris et al anticipates the claimed language for the p38 kinases inhibitors with respect to the following statement:

"More particularly, the specific conditions or diseases that may be treated with the inventive compounds include, without limitation,.....chronic obstructive pulmonary disease, thrombocytopenia, ....."

Both Branger et al and Marin et al teach the use of kinases which coagulates anticipates the claimed inventions.

or, in the alternative for claims 6 and 7 which are rejected under 35 U.S.C. 103(a) as obvious over Leftheris et al. US 6670357 further in view of Cirillo et al U.S.6,319,921, "Aromatic heterocyclic compound as anti-inflammatory agents".

It would have been prima facie obvious to employ the compound of column 49 . Cirillo et al, which is the same as Formula I as recited in Claim 7 for the treatment

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thrombocytopenia as taught by Leftheris et al since both compounds have similar structures used for similar conditions, which includes inflammatory processes, as recited:

“such inhibitors are effective in treating those diseases. Accordingly, the p38 enzymes serve an important role in inflammatory processes mediated by IL-1 and TNF-.alpha. Compounds that reportedly inhibit p38 kinase and cytokines such as IL-1 and TNF-.alpha. for use in treating inflammatory diseases are disclosed...”

and

Cirillo et al, which states:

“It is a further object of the invention to provide methods for treating diseases and pathological conditions involving inflammation such as chronic inflammatory disease.”

It would have been prima facie obvious to one of ordinary skilled in the art to expect that the similar compounds having the same functions would treat the same conditions as thrombocytopenia absent unexpected or unobvious process conditions.

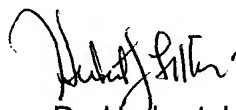
Applicant is requested to indicate in the specification any unexpected or unobvious use or activity of the claimed compounds over those of the references to overcome the above rejections.

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5. **No claim is allowed.**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Examiner Lilling whose telephone number is 571-272-0918** and **Fax Number** is (703) 872-9306 or SPE Michael Wityshyn whose telephone number is 571-272-0926. Examiner can be reached Monday-Thursday from about 5:30 A.M. to about 3:00 P.M. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

H.J.Lilling: HJL  
(703) 308-2034  
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August 09, 2004



Dr. Herbert J. Lilling  
Primary Examiner  
Group 1600 Art Unit 1651